

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

AZEEZUDDIN Z. ABDULLAH,

Plaintiff,

V.

FREEDOM MORTGAGE CORPORATION,

Defendant.

CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Defendant Freedom Mortgage Corporation (“Freedom Mortgage”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1331, on the basis of a federal question, 1441, and 1446.

I.

INTRODUCTION

1. On November 2, 2018, plaintiff Azeezuddin Z. Abdullah (“Plaintiff”) filed his Original Petition and Application for Injunctive Relief in the 192nd Judicial District Court, Dallas County, Texas, as case number DC-18-16612 (“Petition”).

2. In the Petition, Plaintiff asserts claims against Freedom Mortgage for violation of 12 C.F.R. §§ 1024.35, 1024.41, 1026, 1026.41, 2605, and 2609, violation of the Real Estate Settlement Procedures Act (“RESPA”), and violation of 15 U.S.C. § 1638. Additionally, Plaintiff seeks an injunction enjoining Freedom Mortgage from proceeding with a foreclosure of the real property commonly known as 936 Foxwood Drive, Desoto, Texas 75115 (“Property”).

3. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other papers filed in the state court action and obtained by Freedom Mortgage are attached hereto as Exhibit “A.”

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II.

TIMELINESS OF REMOVAL

4. The Petition was filed on November 2, 2018 and Freedom Mortgage has not been served. Removal is timely because this Notice of Removal is filed within 30 days after the receipt by Freedom Mortgage of a copy of the initial pleading setting forth Plaintiff's claim for relief upon which such action or proceeding is based.

III.

BASIS FOR REMOVAL: FEDERAL QUESTION JURISDICTION

5. Removal is proper under 28 U.S.C. § 1441(a), which provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending." Federal district courts have original jurisdiction of all civil actions arising under the laws of the United States under 28 U.S.C. § 1331.

6. This action arises under the laws of the United States. Plaintiff has asserted claims for violation of 12 C.F.R. §§ 1024.35, 1024.41, 1026, 1026.41, 2605, and 2609, violation of the Real Estate Settlement Procedures Act ("RESPA"), and violation of 15 U.S.C. § 1638.

IV.

BASIS FOR REMOVAL: DIVERSITY JURISDICTION

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332. The requirements for diversity jurisdiction are met in this case because Plaintiff and Freedom Mortgage are completely diverse in citizenship and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8. Complete diversity exists because Plaintiff is a citizen of Texas, residing in Dallas, County, Texas. *See* Exhibit "A," Plaintiff's Original Petition at ¶ 1. Freedom Mortgage is incorporated in New Jersey, with its principal place of business in New Jersey. A corporation is a citizen of the state where it is incorporated and the state where it has its principal place of business. *See* 28 U.S.C. § 1332(c)(1); *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 88-90 (2005).

9. In Plaintiff's Petition, he seeks injunctive relief to enjoin Freedom Mortgage from completing a foreclosure of the Property. *See* Exhibit "A," Plaintiff's Original Petition, p. 6-8, ¶ VI, VII, and VIII. When injunctive relief is sought, the amount in controversy is measured by the value of the object of the litigation. *See Farkas v. GMAC Mortg., LLC*, 737 F.3d 338, 341 (5th Cir. 2013). When the object of the mortgagor's litigation is the protection of their entire property, the fair market value of the property is the proper measure of the amount in controversy. *Id.* The value of the Property is at least \$185,590. *See* Dallas County Appraisal District Summary of the Property, a true and correct copy of which is attached hereto as Exhibit "B."¹ As such, the amount in controversy exceeds \$75,000.

V.

VENUE

10. Venue is proper in the U.S. District Court for the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. § 1441(a) because Dallas County, Texas is located within this District and cases arising from Dallas County, Texas are properly assigned to the U.S. District Court for the Northern District of Texas, Dallas Division. *See* 28 U.S.C. § 124(d)(4).

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¹ Freedom Mortgage respectfully requests that the Court take judicial notice of the Dallas County Appraisal District Summary because it is a public record and the information contained therein is readily ascertainable from the source and cannot reasonably be questioned. *See Funk v. Snyder*, 631 F.3d 777, 783 (5th Cir. 2011).

VI.

ADDITIONAL REQUIREMENTS

11. Plaintiff has demanded a jury trial.

12. Written notice of removal will be provided to Plaintiff and filed with the clerk of the 192nd District Court, Dallas County, Texas contemporaneously with the filing of this Notice of Removal.

Date: November 9, 2018

Respectfully submitted,
MALCOLM ♦ CISNEROS, A Law Corporation

/s/ Nathan F. Smith

NATHAN F. SMITH
Texas Bar No. 24094355
9330 LBJ Freeway, Suite 900
Dallas, TX 75243
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

LOCAL COUNSEL:

TRAVIS H. GRAY
Texas Bar No. 24044965
JACK O'BOYLE & ASSOCIATES
P.O. Box 815369
Dallas, TX 75381
Phone: (972) 247-4451
Fax: (972) 247-0642
Email: travis@jackoboyle.com

CERTIFICATE OF SERVICE

On November 9, 2018, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5 (b)(2).

/s/ Christina Valenzuela
Christina Valenzuela